

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
Long Island Federal Courthouse
814 Federal Plaza
Central Islip, NY 11722-4451
(631) 712-5730**

**BEFORE: ARLENE R. LINDSAY
 United States Magistrate Judge**

DATE: October 6, 2005

TIME: 10:30 A.M.

DOCKET NO: 02-cv-06171-LDW-ARL

CASE: Richardson v. Arrow Electronics, Inc.

_____ **INITIAL CONFERENCE**

_____ **STATUS CONFERENCE**

BY TELEPHONE _____

_____ **SETTLEMENT CONFERENCE**

XX _____ **FINAL CONFERENCE**

_____ **ORDER**

APPEARANCES:

FOR PLAINTIFF:

FOR DEFENDANT:

Jeffrey Bernbach

Richard C. Cahn

The following rulings were made:

Before the court is plaintiff's September 19, 2005 letter seeking an order compelling the defendant to produce copies of its internal postings and external advertisements for the four positions of Sales Representative filled by defendant in 1999 and to produce copies of its Affirmative Action Plans for the period 1993 to the present. Plaintiff also seeks leave to depose Maria Thiery, one of four persons hired to fill a Sales Representative position in 1999. Defendant opposes the application by letters dated September 23, 2005 and September 26, 2005. Plaintiff has also submitted a reply letter dated September 26, 2005. After hearing argument on the plaintiff's application, it is resolved as follows:

1) Given defendant's representation that copies of its internal postings and external advertisements for the four positions of Sales Representative filled by defendant in 1999 do not exist, there is nothing for the court to resolve. The defendant simply cannot produce what it does not have.

2) Plaintiff's request for the production of defendant's Affirmative Action Plans for the period 1993 to the present is denied. The court finds that the Plans are not relevant to the plaintiff's claim that she was not promoted based on her race, nor has the plaintiff overcome the presumption that such Plans are confidential.

3) Plaintiff's request for leave to depose Maria Thiery, one of four persons hired to fill a Sales Representative position in 1999, is granted. Such deposition shall be taken in advance of the trial of this matter, consistent with the schedule set by District Judge Wexler. Plaintiff is warned that she will not be permitted to conduct further discovery as a result of Ms. Thiery's testimony.

The parties shall electronically file their proposed joint pretrial order by October 21, 2005. Upon approval of the joint pretrial order, the case will be marked ready for trial and returned to the district court for final disposition.

SO ORDERED:

/s/
